

ASSEMBLY BILL

No. 1452

Introduced by Assembly Member Hadley

February 27, 2015

An act to amend Section 44939.5 of the Education Code, relating to certificated employees.

LEGISLATIVE COUNSEL'S DIGEST

AB 1452, as introduced, Hadley. Certificated employees: personnel files: expungement: egregious misconduct.

Existing law prohibits a permanent school employee from being dismissed, except for one or more of certain enumerated causes, including egregious misconduct, as defined. Existing law prohibits school districts, county offices of education, and charter schools from entering into an agreement that would authorize expunging from a school employee's personnel file credible complaints of, substantiated investigations into, or discipline for, egregious misconduct, unless the documents contain allegations that have been the subject of a hearing before an arbitrator, school board, personnel commission, Commission on Professional Competence, or administrative law judge, in which the employee prevailed, the allegations were determined to be false, not credible, or unsubstantiated, or a determination was made that the discipline was not warranted.

This bill would also prohibit school districts, county offices of education, and charters from directly expunging from an employee's personnel file credible complaints of, substantiated investigations into, or discipline for, egregious misconduct, unless documents containing allegations that have been the subject of a hearing before an arbitrator, school board, personnel commission, Commission on Professional

Competence, or administrative law judge, in which the employee prevailed, the allegations were determined to be false, not credible, or unsubstantiated, or a determination was made that the discipline was not warranted.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 44939.5 of the Education Code is
2 amended to read:

3 44939.5. (a) School districts, county offices of education, and
4 charter schools ~~are prohibited from entering~~ *shall not enter* into
5 an agreement that would prevent a mandatory report of egregious
6 misconduct, as defined in paragraph (1) of subdivision (a) of
7 Section 44932, to the Commission on Teacher Credentialing or
8 any other state or federal agency.

9 (b) School districts, county offices of education, and charter
10 schools ~~are prohibited from entering~~ *schools shall not expunge*
11 *from an employee's personnel file, nor shall they enter* into an
12 agreement that would authorize expunging from ~~a school an~~
13 employee's personnel file *file*, credible complaints of, substantiated
14 investigations into, or discipline for, egregious ~~misconduct.~~
15 *misconduct, as defined in paragraph (1) of subdivision (a) of*
16 *Section 44932.* This prohibition does not preclude *removing, or*
17 *entering into* any agreement to ~~remove~~ *remove*, documents
18 containing allegations that have been the subject of a hearing before
19 an arbitrator, school board, personnel commission, Commission
20 on Professional Competence, or administrative law judge, in which
21 the employee prevailed, the allegations were determined to be
22 false, not credible, or unsubstantiated, or a determination was made
23 that the discipline was not warranted.

24 (c) A school district, county office of education, or charter
25 school that has made a report of an employee's egregious
26 misconduct to the Commission on Teacher Credentialing shall
27 disclose this fact to a school district, county office of education,
28 or charter school considering an application for employment from
29 the employee, upon inquiry.

30 (d) Any school employee who alleges that another school
31 employee has engaged in egregious misconduct, as defined in

1 paragraph (1) of subdivision (a) of Section 44932, knowing at the
2 time of making the allegation that the allegation was false, shall
3 be subject to certificate revocation, if applicable.

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